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**RECEIVED**

JUN 24 2015

**Ohio Attorney General  
Constitutional Offices Section**

June 24, 2015

Hon. Mike DeWine  
Ohio Attorney General  
30 E. Broad Street  
Columbus, Ohio 43215

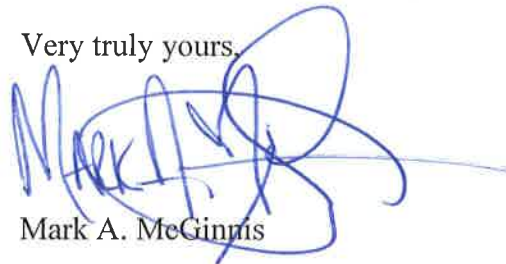
***Re: "Fresh Start Act" Summary Petition***

Dear Attorney General DeWine:

I am hereby filing with your office on behalf of our client, Responsible Ohio, and pursuant to R.C. §3519.01(A), a petition to approve a summary of a statute to be proposed by initiative petition. The petition contains 4,308 signatures of electors on 118 part-petitions and the summary and full text of the law to be proposed.

Please contact me if you have any questions. Thank you.

Very truly yours,



Mark A. McGinnis

# INITIATIVE PETITION

**To the Attorney General of Ohio:** Pursuant to Ohio Revised Code § 3519.01(A), the undersigned electors of the State of Ohio, numbering in excess of one thousand, hereby submit to you the full text of a proposed law and a summary of the same.



## TITLE

Fresh Start Act

## SUMMARY

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JUN 24 2015

Ohio Attorney General  
Constitutional Offices Section

The Fresh Start Act would amend Ohio Revised Code Section 2953.37, which currently provides for expungement of certain convictions relating to firearms, to also provide an opportunity for persons to seek expungement of certain drug related convictions and adjudications if the conduct is no longer an offense under Ohio law. Among other things, the Act would:

1. Provide that any person convicted of a drug offense under Chapter 2925 of the Revised Code, or of a violation of Revised Code section 2923.01 (conspiracy), 2923.02 (attempt to commit an offense), 2923.03 (complicity), 2923.24 (possessing criminal tools) or 2923.32 (corrupt activity) to the extent that these relate to an offense under Chapter 2925, may apply to have the conviction expunged if the offense is no longer a criminal offense in Ohio.
2. Provide that any person adjudicated to be a delinquent child based on conduct that would be an offense under Chapter 2925 of the Revised Code, or a violation of Revised Code section 2923.01 (conspiracy), 2923.02 (attempt to commit an offense), 2923.03 (complicity), 2923.24 (possessing criminal tools) or 2923.32 (corrupt activity) to the extent that these relate to an offense under Chapter 2925, if committed by an adult, may apply to have the adjudication expunged if the offense is no longer an offense in Ohio.
3. Provide that an applicant for expungement, prior to the court hearing on the application, may also request relief from or a modification of a sanction, sentence or detention imposed for the offense for which expungement is sought.
4. Set forth procedures for applying for expungement and relief from sanctions with the appropriate court and consideration of the application and request, including what must be in the application and request, an opportunity for the appropriate prosecuting attorney to object to the granting of the application for expungement and request for relief, the ability of the court to have inquiries made and reports prepared by probation officers concerning the applicant, the conducting of a hearing within a reasonable time, and required findings that the court must make in granting an application for expungement or a request for relief from sanctions.
5. Provide that the court may appoint legal counsel for the applicant if the applicant is indigent and fair and effective consideration of the application will be aided.
6. Provide that the court shall consider any objections filed by the prosecuting attorney to an application for expungement and any response filed by the applicant and shall grant the application if it finds that the conditions for granting an application have been met, but may deny the application if it finds that the interests of the applicant in expungement are significantly outweighed by the legitimate needs, if any, of the government to maintain the records that would be expunged.
7. Provide that if the court grants an application for expungement under this section, it must then consider a request for relief from sanctions and grant such request to the extent that the sanctions are still in effect; but also authorize the court to resentence the applicant if the sanction, sentence or detention also relates to a conviction or adjudication that is not the subject of the application for expungement.
8. Provide that an order of relief under this section shall restore to the applicant rights and privileges not otherwise restored by the termination of the sentence, detention or sanction imposed for the offense that is expunged.
9. Require the Attorney General of Ohio to disseminate to the media information concerning the provisions of the Act.

10. Prohibit any governmental entity from releasing information concerning any record of conviction or adjudication that has been expunged under this section.

11. Provide requirements on persons, including consumer reporting agencies, that have acquired records of conviction or adjudication as a delinquent child, to obtain updates of expungements of the same and to delete records of convictions and adjudications that have been expunged.

12. Provide that a person may not be questioned in any application for employment, license or other right or privilege, any appearance as a witness, or any other inquiry, with respect to any conviction or adjudication that has been expunged under this section.

#### **COMMITTEE TO REPRESENT THE PETITIONERS**

The following persons are designated as a committee to represent the petitioners in all matters relating to the petition or its circulation:

Taylor Deutsche  
903 Clayton Dr.  
Worthington, OH 43085

Patrick T McHenry  
317 N Main St.  
Waynesville, OH 45068

Rosemary Robinson  
16608 Walden Ave  
Cleveland, OH 44128

Barbara Gould  
8525 Camargo Club Drive  
Cincinnati, OH 45243

Robert J Letourneau  
7461 Fitzroy Ct.  
Cincinnati, OH 45241

## FULL TEXT OF LAW

Be it Enacted by the People of the State of Ohio that Section 2953.37 of the Ohio Revised Code shall be amended to provide as follows:

[New language is underlined, repealed language is struck through, and unchanged language is not underlined and not struck through]

### **2953.37 Expungement of certain convictions for offenses no longer unlawful**

(A) As used in this section:

- (1) "Expunge" means to destroy, delete, and erase a record as appropriate for the record's physical or electronic form or characteristic so that the record is permanently irretrievable.
- (2) "Official records" has the same meaning as in section 2953.51 of the Revised Code.
- (3) "Prosecutor" has the same meaning as in section 2953.31 of the Revised Code.
- (4) "Record of conviction" means the record related to a conviction of or plea of guilty to an offense.

(B) Any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and who is authorized by division (H)(2)(a) of that section to file an application under this section for the expungement of the conviction record, or any person who is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of a section of chapter 2925 of the Revised Code that is no longer a criminal offense in Ohio or a violation of section 2923.01 (conspiracy), 2923.02 (attempt to commit an offense), 2923.03 (complicity), 2923.24 (possessing criminal tools) or 2923.32 (corrupt activity) of the Revised Code to the extent that it relates to an offense under chapter 2925 of the Revised Code that is no longer a criminal offense in Ohio, may apply to the sentencing court for the expungement of the record of conviction, and any person who is or was adjudicated to be a delinquent child based on conduct that was an offense under chapter 2925 of the Revised Code, or under section 2923.01, 2923.02, 2923.03, 2923.24, or 2923.32 of the Revised Code to the extent that the adjudication relates or related to conduct prohibited under chapter 2925 of the Revised Code, if committed by an adult, may apply to the juvenile court that made the adjudication for expungement of the adjudication if such conduct is no longer a criminal offense in Ohio. The person may file the application at any time on or after September 30, 2011. The application shall do all of the following:

- (1) Identify the applicant, the offense for which the expungement is sought, the date of the conviction of or plea of guilty to that offense or adjudication as a delinquent child, and the court in which the conviction occurred or the plea of guilty or adjudication was entered;
- (2) Include evidence that the offense was a violation of division (B), (C), or (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and that the applicant is authorized by division (H)(2)(a) of that section to file an application under this section or evidence that the offense was a violation, or would have been if committed by an adult, of a section of chapter 2925 of the Revised Code that is no longer a criminal offense in Ohio or a violation of section 2923.01 (conspiracy), 2923.02 (attempt to commit an offense),

2923.03 (complicity), 2923.24 (possessing criminal tools) or 2923.32 (corrupt activity) of the Revised Code to the extent that it relates to an offense under chapter 2925 of the Revised Code that is no longer a criminal offense in Ohio;

(3) Include a request for expungement of the record of conviction or record of adjudication of that offense under this section.

(C) Upon the filing of an application under division (B) of this section and the payment of the fee described in division (D)(3) of this section if applicable, the court shall set a date for a hearing within a reasonable time and shall notify the prosecutor for the case of the hearing on the application. The prosecutor may object to the granting of the application by filing an objection with the court prior to the date set for the hearing. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the applicant. The court shall hold the hearing scheduled under this division.

(D)(1) At the hearing held under division (C) of this section, the court shall do each of the following:

(a) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, or whether the applicant has been convicted of or pleaded guilty to a violation of a section of chapter 2925 of the Revised Code or a violation of section 2923.01 (conspiracy), 2923.02 (attempt to commit an offense), 2923.03 (complicity), 2923.24 (possessing criminal tools) or 2923.32 (corrupt activity) of the Revised Code to the extent that it relates to an offense under chapter 2925 of the Revised Code and whether the conduct that was the basis of the violation is no longer a criminal offense in Ohio, or whether the applicant has been adjudicated to be a delinquent child based on conduct that was an offense under chapter 2925 of the Revised Code, or under section 2923.01, 2923.02, 2923.03, 2923.24, or 2923.32 of the Revised Code to the extent that the adjudication relates or related to conduct prohibited under chapter 2925 of the Revised Code, if committed by an adult, and whether conduct is no longer a criminal offense in Ohio;

(b) Determine whether the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and whether the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011;

(c) If the prosecutor has filed an objection in accordance with division (C) of this section, consider the reasons against granting the application specified by the prosecutor in the objection and any response by the applicant;

(d) Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea expunged against the legitimate needs, if any, of the government to maintain those records.

(2)(a) The court may shall order the expungement of all official records pertaining to the case and the deletion of all index references to the case and, if it does order the expungement, shall send notice of the order to each public office or agency that the court has reason to believe may have an official record pertaining to the case if the court, after complying with division (D)(1) of

this section, determines both of the following:

(i) That the applicant has been convicted of or pleaded guilty to a violation of division (E) of section 2923.16 of the Revised Code as it existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, or that the applicant has been convicted of or pleaded guilty to a violation of division (B) or (C) of section 2923.16 of the Revised Code as the division existed prior to September 30, 2011, and the conduct that was the basis of the violation no longer would be a violation of that division on or after September 30, 2011, due to the application of division (F)(5) of that section as it exists on and after September 30, 2011, or that the applicant has been convicted of or pleaded guilty to a violation of a section of chapter 2925 of the Revised Code or a violation of section 2923.01 (conspiracy), 2923.02 (attempt to commit an offense), 2923.03 (complicity), 2923.24 (possessing criminal tools) or 2923.32 (corrupt activity) of the Revised Code to the extent that it relates to an offense under chapter 2925 of the Revised Code that is no longer a criminal offense in Ohio, or that the applicant has been adjudicated to be a delinquent child based on conduct that was an offense under chapter 2925 of the Revised Code, or under section 2923.01, 2923.02, 2923.03, 2923.24, or 2923.32 of the Revised Code to the extent that the adjudication related to conduct prohibited under chapter 2925 of the Revised Code, if committed by an adult, and that is no longer a criminal offense in Ohio;

(ii) That the interests of the applicant in having the records pertaining to the applicant's conviction or guilty plea or adjudication expunged are not significantly outweighed by any legitimate needs of the government to maintain those records.

(b) The proceedings in the case that is the subject of an order issued under division (D)(2)(a) of this section shall be considered not to have occurred and the conviction or guilty plea or adjudication of the person who is the subject of the proceedings shall be expunged. The record of the conviction or adjudication shall not be used for any purpose, including, but not limited to, a criminal records check under section 109.572 of the Revised Code or a determination under section 2923.125 or 2923.1212 of the Revised Code of eligibility for a concealed handgun license. The applicant may, and the court shall, reply that no record exists with respect to the applicant upon any inquiry into the matter.

(3) Upon the filing of an application under this section, the applicant, unless indigent, shall pay a fee of fifty dollars. The court shall pay thirty dollars of the fee into the state treasury and shall pay twenty dollars of the fee into the county general revenue fund.

(c)(1) If an applicant moving for expungement under this section is, at the time of the application, still subject to any sanction, detention or sentence that was imposed, in whole or part, for the violation or conduct, the application for expungement may also include an additional request for an order of discharge, release, modification or other appropriate relief from the sanction, detention or sentence. The request for an additional order of relief may be filed at the same time as the application for an order of expungement or at any time after that application has been filed prior to the court hearing to be held under division (c) of this section. When requesting an order of relief in addition to expungement, the applicant shall identify the basis for the applicant's claim of being still subject to a sanction, detention or sentence based, in whole or in part, on a conviction or adjudication for conduct that is no longer a criminal offense in Ohio, and request that the court to vacate or set aside that sanction, detention or sentence or grant other appropriate relief.

(2) If an application under this section requests an order of relief in addition to expungement, the court shall notify the prosecutor for the case of the request and the prosecutor may file with the court a response to the request prior to the date set for the hearing on the application for

expungement. The court shall direct its regular probation officer, a state probation officer, or the department of probation of the county in which the applicant resides to make inquiries and written reports as the court requires concerning the request for an order or relief in addition to expungement.

(3) If the court determines an order of expungement is to be granted under division (d) of this section, the court shall then consider any request for additional relief by determining if the applicant is still subject to any sanction, detention or sentence that was based, in whole or in part, upon a conviction or adjudication for conduct that is no longer a criminal offense in Ohio. The court shall enter judgment denying additional relief if the court determines the applicant is not still subject to any sanction, detention or sentence that was based upon, in whole or in part, a conviction or adjudication for conduct that is no longer a criminal offense in Ohio. The court shall enter judgment that vacates or sets aside or modifies any sanction, detention or sentence that it determines was based, in whole or in part, upon a conviction or adjudication for conduct that is no longer a criminal offense in Ohio. The court may resentence the applicant if the sentence, detention or sanction also related a conviction or adjudication for conduct that is not the subject of the application for expungement.

(4) Any order of relief in addition to an order of expungement granted under this division shall restore to the person who is the subject of the order of relief all rights and privileges forfeited based on the conviction or adjudication not otherwise restored by termination of the sentence, detention or sanction or by final release on parole or post-release control.

(f) The attorney general shall develop a public media advisory that summarizes the expungement and additional relief procedures established under this section. Within thirty days after the adoption of this section, the attorney general shall provide a copy of the advisory to each daily newspaper published in this state and each television station that broadcasts in this state. The attorney general may provide the advisory in a tangible form, an electronic form, or both.

(g)(1) With respect to any person, including, but not limited to, a consumer reporting agency, that acquires records of conviction or adjudication as a delinquent child from any governmental entity, that governmental entity shall not make available to such person information concerning such records of conviction or adjudication that have been expunged pursuant to this section.

(2) Each person, including, but not limited to, a consumer reporting agency, that has acquired records of conviction or adjudication as a delinquent child from any governmental entity shall, prior to disclosing such records, (1) obtain from that governmental entity, on a monthly basis or on such other schedule as the governmental entity may establish, any updated records of conviction, adjudication or other information available for the purpose of complying with this section, and (2) update its records of conviction or adjudication to permanently delete such expunged records. Such person shall not further disclose such expunged records.

(3) A person may not be questioned in any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry, with respect to any conviction or adjudication expunged under this section.

(h) Upon request by an applicant when filing an application under division (b) of this section, or upon the filing of any objections by the prosecutor to the application, the court may appoint legal counsel to represent the applicant upon a finding that the applicant is indigent and that fair and effective consideration of the application will be aided by the providing counsel for the application.



